

**Subpart F—Department Counsel**

**§ 719.50 What authority does Department Counsel have?**

(a) Department Counsel will receive written delegated authority from the contracting officer to serve as the contracting officer's representative for legal matters.

(b) Actions by Department Counsel may not exceed the responsibilities and limitations as delegated by the contracting officer. Delegated contracting officer representative authority shall not be construed to include the authority to execute or modify the contract or resolve any contract dispute arising under the contract. Additional discussion of the authority and limitation of contracting officers can be found at 48 CFR 1.602–1, and contracting officer's representatives at 48 CFR (DEAR) 942.270–1. The clause, Technical Direction, 48 CFR (DEAR) 952.242–70, also discusses the responsibilities and authority of a contracting officer's representative.

**§ 719.51 What information must be forwarded to the General Counsel's Office concerning contractor submissions to Department Counsel under this part?**

Department Counsel must submit through the General Counsel reporting system, the reviewed costs and status updates for all matters involving retained counsel, including but not limited to contractor litigation. The reports are to be received by the 15th day of the month following the end of each quarter of the fiscal year.

**§ 719.52 What types of field actions must be coordinated with the General Counsel?**

(a) Requests from contractors for exceptions or deviations from this part must be submitted to the contracting officer and Department Counsel, and approved by the General Counsel or his/her delegatee.

(b) Requests from contractors for approval to initiate or defend litigation, or to appeal from adverse decisions, where legal issues of first impression, sensitive issues, issues of national significance to the Department or of broad applicability to the Government

that might adversely impact its operations are involved must be coordinated by Department Counsel with the General Counsel or his/her delegatee.

(c) Department Counsel must inform the General Counsel of any Significant Matter, as defined in this part, and must coordinate any action involving a Significant Matter with the General Counsel, or his/her delegatee, as directed by the General Counsel or his/her delegatee.

**APPENDIX A TO PART 719—GUIDANCE FOR LEGAL RESOURCE MANAGEMENT**

**MANAGEMENT AND ADMINISTRATION OF OUTSIDE LEGAL SERVICES**

- 1.0 Alternative Dispute Resolution
- 2.0 Cost Allowability Issues
- 2.1 Underlying Cause for Incurrence of Costs

Attachment—Contractor Litigation and Legal Costs, Model Bill Format

**MANAGEMENT AND ADMINISTRATION OF OUTSIDE LEGAL SERVICES**

This guidance is intended to assist contractors, contracting officers and retained legal counsel in managing the costs of outside legal services.

*1.0 Alternative Dispute Resolution*

Contractors are expected to evaluate all matters for appropriate alternative dispute resolution (ADR) at various stages of an issue in dispute, e.g., before a case is filed, during pre-discovery, after initial discovery and during pretrial. This evaluation should be done in coordination with the Department's ADR liaison if one has been established or appointed or Department Counsel if an ADR liaison has not been appointed. Contractors, contractor counsel, and Department Counsel are also encouraged to consult with the Department's Director of the Office of Conflict Prevention and Resolution. The Department anticipates that mediation will be the principal and most common method of alternative dispute resolution. Agreement to arbitrate should generally be consistent with the Administrative Dispute Resolution Act (incorporated in part at 5 U.S.C. 571, et seq.) and Department guidance issued under that Act. When a decision to arbitrate is made, a statement fixing the maximum award amount should be agreed to in advance by the participants.

*2.0 Cost Allowability Issues*

A determination of cost reasonableness depends on a variety of considerations and circumstances. 48 CFR 31.201–3 establishes that